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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,621	06/24/2003	Shoei-Yuan Shih	2450-0505P	1127

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BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER

COTTINGHAM, JOHN R

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/601,621

Applicant(s)

SHIH, SHOEI-YUAN

Examiner

John R. Cottingham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Chou U.S. Patent 5,671,580. Chou shows all of the claimed subject matter of a positioning structure in Figures 1-3b.

Regarding claim 1, a positioning structure for a door fastener, which is to encircle a positioning area on a metal case so as to provide a firm positioning to a door fastener with lodge-in space, including the following components: a vertical panel 11 that meets the thickness of the lodge-in space, a through hole (center hole) provided on the vertical panel, and an upper curb portion 13 provided at the through hole on the vertical panel, and a horizontal panel 12 that is vertically connected to the vertical panel and two side curb portions 15 that are provided on the horizontal panel corresponding to the width of the door fastener, in all, the upper curb portion 13, two side curb portions 15, and the horizontal panel 12 encircle a positioning area that forms a firm positioning for the door fastener when the door fastener is placed into the positioning area through the through hole.

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Regarding claim 2, wherein the common specified thickness of the lodge-in space of the door fastener is 2 millimeters (mm), whereas the common specified thickness of the vertical panel is 1 mm; therefore, a complementary portion with 2 mm thickness is integrally formed in a bending and overlapping manner on the vertical panel so as to meet the required thickness of the lodge-in space. Chou is silent on the exact thickness of the panel (but it appears from the drawings that it would be within the claimed dimensions), however the optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Regarding claim 3, wherein the vertical panel 11 and the horizontal panel 12 can be integrally formed in a vertically bending manner.

Regarding claim 4, wherein an opening 16 can be provided on the vertical panel at two sides of the through hole, and a complementary portion is provided at two sides of the through hole in an overlapping and upward bending manner on the bottom panel of the case.

### ***Allowable Subject Matter***

3. Claim 5 is allowed.

### ***Response to Arguments***

Applicant's arguments filed 8/25/04 have been fully considered but they are not persuasive. Applicant first argues that Chou U.S. Patent 5,671,580 does not show a positioning structure for a door fastener. Applicant argues that the hole in the Chou invention has no significance to a fastening element. First the Examiner would like to

point out that the fastener is not positively claimed in Applicant's instant application.

Next in order to meet the claimed limitation, the prior art only has to show the claimed limitations and be capable of performing the functions, and in this case, Chou meets all the claimed limitations, as set out in the rejection above.

The Applicant further argues that the curbed portions of Chou are not set to accept a fastener. The Examiner disagrees, again the fastener is not claimed, and the prior art only has to be capable of accepting a fastener of any type.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Cottingham whose telephone number is (703) 306-3439. The examiner can normally be reached on Monday - Thursday, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571)272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John R. Cottingham  
Primary Examiner  
Art Unit 2116

jrc